THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No.22448 of 2005

DATED:18-10-2005

BETWEEN:

Ravi Rajendra Prasad .. Petitioner

And

The Election Officer, Vinjaram PACS Ltd. And another

… Respondents

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No.22448 of 2005

ORDER:

This petition is filed questioning the rejection of the nomination of the petitioner to the elections to be held to Vinjaram Primary Agricultural Cooperative Society on various grounds.

The main contention of the learned counsel for the petitioner is that since as per Section 21(1)(j) of the A.P. Cooperative Societies Act, 1964 persons convicted by a criminal Court for an offence involving moral delinquency only are disqualified from contesting the elections, and since the petitioner was convicted for an offence under Section 323 of the Indian Penal Code, which cannot be said to be an offence involving moral delinquency, and since the petitioner was not afforded an opportunity of proving that he is not involved in any offence involving moral delinquency, rejection of the nomination of the petitioner, per se, is illegal, by placing strong reliance on **PREMKUMAR v STATE OF HIMACHAL PRADESH AND OTHERS** and **RISAL SINGH v CHANDJI RAM AND OTHERS** in support of his contention that an offence under Section 323 IPC is not an offence involving moral delinquency and that an opportunity of being heard before rejecting the nomination, has to be afforded to a candidate.

The contention of the learned Government Pleader is that since the election process has already begun, the remedy of the petitioner, if any, is to file an election petition before the Tribunal, but he cannot by invoking the jurisdiction of this Court under Article 226 of the Constitution of India stall the process of elections.

Since this Court generally would not entertain petitions relating to the validity of acceptance or rejection of a nomination under Article 226 of the Constitution of India, when the election process is set in motion, since such an exercise is but an intermediary process of election, as held by this Court in **V.NARAYANA v ELECTION OFFICER, MUNICIPAL COMMISSIONER, ALWAL MUNICIPALITY, R R DISTRICT AND ANOTHER, A.P.SARPANCH**

ASSOCIATION AND OTHERS v GOVERNMENT OF A.P. PANCHAYAT RAJ DEPARTMENT AND OTHERS, GUTHAKONDA KANAKA DURGA v STATE ELECTION COMISSIONER, GOVERNMENT OF ANDHRA PRADESH, HYDERABAD AND OTHERS and the Apex Court in **C.SUBRAHMANYAM v K.RAMANJANEYULU AND OTHERS , and SHRI SANT SADGURU JANARDHAN SWAMI S D U SAMSTAN Vs. STATE OF MAHARASTRA** petitioner cannot be granted the relief sought in this petition.

Therefore, the petition is dismissed as not maintainable granting liberty to the petitioner to approach the Tribunal concerned for appropriate relief. No costs.

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18-10-2005

kvrm/dvs